

REMARKS

Receipt of the Office Action of July 28, 2008 is gratefully acknowledged.

Claims 4 - 6 were presented for further examination. These were rejected under 35 USC 103(a) over Packwood et al in view of newly cited McAlear.

This rejection is respectfully traversed.

This rejection has been indicated as being final on the grounds that the previous amendment to the claims necessitated the citation of the newly cited reference. Applicants respectfully disagree with the "grounds" for making the noted rejection final. Claim 4 has always recited that two field devices were connected via a fieldbus and that an on-site operating means was provided. It is true that "remote parametering" was introduced into claim 4 in the last response, but that is related to the on-site operating means, not the remote control of computers. It is respectfully submitted that the basis for the finality of the noted rejection is misplaced.

Turning to the substance of the McAlear patent, it is noted that McAlear refers to, as noted, a remote control of computer network activity and is particularly concerned with providing remote users with means for manipulating of data objects and initiation of applications between collaborating computers. In particular, McAlear refers to a wireless remote for controlling computers remotely over a data network. The wireless remote control system includes remote access programs running on data network servers, which provide access to, and disposition of data objects. The wireless remote control system disclosed is particularly useful for overcoming the difficulty of handling data over a low bandwidth wireless link with the

minimal display facilities of a wireless handset or Personal Digital Assistant, and of providing linkage between data objects on one computer and applications residing on another computer under the direct supervision of the user without the data objects needing to traverse the low bandwidth link.

It is clear that McAlear does not disclose field devices or their connection to each other via a fieldbus. McAlear also does not disclose that one field device has an on-site operating means, which is certainly not a PDA or a keyboard or a mouse. That means that not every field device has an on-site operating means (and this was clear from claim 4 as previously amended). Also, McAlear fails to disclose that a second field device in the fieldbus architecture is parametered via the on-site operating means of the first field device. These distinctions amount to essential features of claim 4 which neither McAlear nor Packwood et al disclose.

It is difficult to see how or why Packwood et al and McAlear are combinable. One deals with a process control system including multi-protocol field devices (Packwood et al), whereas the other deals with the remote control of a computer network (McAlear). The problems that each addresses are different and the solutions are tailored to the problem addressed. Neither patent shows or suggests the claimed steps of claim 4 as a solution to the problem faced by applicants. See, *In re Wright*, 6 USPQ2d 1959 (Fed. Cir. 1988), which would conclude that a *prima facie* case of obviousness is not made by the combination of Packwood et al and McAlear. Why would the person skilled in the art consider the teaching of McAlear when he starts with Packwood et al, given the differences in the two disclosures? This would not be expected from a common sense point of view. See, *KSR International Co. v. Teleflex Inc.* 82 USPQ2d 1385 (Sup. Ct., 2007) where the Supreme Court instructed us to look to “common sense” when applying 35 USC 103. Would McAlear offer a “predictable variation” for the person skilled in the art

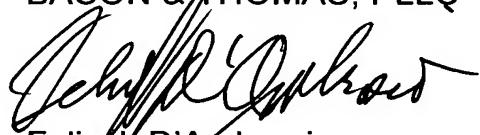
given the person skilled in the art's knowledge of Packwood et al? It is respectfully submitted that *KSR* would say no because the teaching of McAlear does not present a "variation" (predictable or otherwise) of the teaching found in Packwood et al.

Because of the differences noted above and the fact that the combination is not *prima facie*, it is respectfully submitted, that claims 4 - 6 should be allowed.

Claim 4 has been amended to correct a typographical error which was introduced into the claim by the last amendment. The correction of this error does not raise new issues or require further searching so that it should be entered.

If the examiner wishes to discuss the matter of the final rejection treated above, he is invited to telephone the undersigned and arrange for a telephonic or personal interview.

Respectfully submitted,
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